

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

ELMORE COOK, Jr.,)
)
Plaintiff,)
)
v.) Case No. 7:08-cv-01314-SLB-JEO
)
Sgt. ROSSMAN, *et al.*,)
)
Defendants.)

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on January 30, 2009, recommending that this action be dismissed for failing to state a claim upon which relief can be granted. A final judgment of dismissal was entered pursuant to that recommendation on April 14, 2009. However, after becoming aware that the plaintiff had not received a copy of the report and recommendation, the court set aside the dismissal on May 28, 2009, and afforded the plaintiff fifteen days to file specific written objections. The plaintiff filed objections to the report and recommendation on June 10, 2009. (Doc. #21). Although he presents additional factual allegations in his objections, he fails to show that Sgt. Rossman's temporary placement of him in the general population of the prison subjected him to the "extreme deprivations" required to assert an Eighth Amendment conditions of confinement claim.¹ He also fails to assert a sufficient factual basis for a finding that Correctional Medical Services or any other defendant was deliberately indifferent to a serious medical need or that

¹ As with his complaint, the plaintiff's objections fail to assert that he suffered actual physical injury resulting from his placement in general population, nor does he present specific facts which exhibit an exposure to the extreme psychological harm which might support a claim under the Eighth Amendment.

any defendant is constitutionally liable in connection with his slip and fall injury on June 29, 2008, or his alleged re-injury while climbing down from his bunk on July 2, 2008.

Accordingly, having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby **ADOPTED** and the recommendation is **ACCEPTED**. Therefore, this action is due to be dismissed, pursuant to 28 U.S.C. § 1915A(b)(1), for failing to state a claim upon which relief may be granted. A Final Judgment will be entered.

DATED this 28th day of September, 2009.

Sharon Lovelace Blackburn

SHARON LOVELACE BLACKBURN
CHIEF UNITED STATES DISTRICT JUDGE